



General Assembly

January Session, 2013

Raised Bill No. 6314

LCO No. 2678

02678_____ENV

Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING CERTAIN REVISIONS TO THE COMMUNITY FARMS PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22-26nn of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The Commissioner of Agriculture may establish a community
4 farms program for the preservation of farmland that does not meet the
5 criteria of the farmland preservation program established pursuant to
6 section 22-26cc for reasons of size, soil quality or location but that may
7 contribute to local economic activity through agricultural production.
8 The commissioner may purchase up to one hundred per cent of the
9 value of development rights directly from an eligible owner, or may
10 acquire development rights on qualifying farmland jointly with a
11 municipality, subject to the appraisal and review required by the
12 regulations adopted pursuant to this section. For the purposes of this
13 section, "development rights" and "owner" shall have the same
14 meaning as in section 22-26bb.

15 (b) If the Commissioner of Agriculture establishes a program in
16 accordance with subsection (a) of this subsection, the commissioner
17 shall, in consultation with the Farmland Preservation Advisory Board
18 established under section 22-26ll, establish criteria for said program.
19 Such criteria shall give preference to farms that produce food or fiber,
20 and at a minimum shall consider (1) the probability that the land will
21 be sold for nonagricultural purposes, (2) the current productivity of
22 the land and the likelihood of continued productivity of such land, (3)
23 the suitability of the land for agricultural use, including whether the
24 soil is classified as locally important soils by the United States
25 Department of Agriculture, and (4) the demonstrated level of
26 community support for preservation of the parcel. The commissioner
27 shall, in consultation with said board, consider mechanisms that
28 encourage continuation of the land in agricultural production to
29 maintain its long-term availability and affordability for future
30 generations of farmers, including, but not limited to, deed restrictions
31 or stewardship requirements.

32 (c) Upon the acquisition by the commissioner of the development
33 rights to agricultural land pursuant to this section, the commissioner
34 shall cause to be filed in the appropriate land records and in the office
35 of the Secretary of the State a notice of such acquisition which shall set
36 forth a description of the agricultural land as will be sufficient to give
37 any prospective purchaser of such agricultural land or creditor of the
38 owner thereof notice of such restriction. Upon such filing, the owner of
39 such agricultural land shall not be permitted to exercise development
40 rights with respect to such land, and such development rights shall be
41 considered and deemed dedicated to the state in perpetuity, except as
42 hereinafter provided. If restricted land is to be sold, the owner shall
43 notify, the commissioner, in writing, of such impending sale not more
44 than ninety days before transfer of title to the land and shall provide
45 the commissioner with the name and address of the new owner.

46 (d) The commissioner shall have no power to release such land from
47 its agricultural restriction, except as set forth in this subsection. The

48 commissioner, in consultation with the Commissioner of Energy and
49 Environmental Protection and such advisory groups as the
50 Commissioner of Agriculture may appoint, may approve (1) a petition
51 by the owner of the restricted agricultural land to remove such
52 restriction provided such petition is approved by resolution of the
53 legislative body of the town, or (2) a petition by the legislative body of
54 the town in which such land is situated to remove such restriction
55 provided such petition is approved in writing by said owner. Upon
56 approval of such a petition by the commissioner, the legislative body
57 of the town shall submit to the qualified voters of such town the
58 question of removing the agricultural restriction from such land or a
59 part thereof, at a referendum held at a regular election or a special
60 election warned and called for that purpose. In the event a majority of
61 those voting at such referendum are in favor of such removal, the
62 restriction shall be removed from the agricultural land upon filing of
63 the certified results of such referendum in the land records and the
64 office of the Secretary of the State, and the commissioner shall convey
65 the development rights to such owner provided such owner shall pay
66 the commissioner an amount equal to the value of such rights. Such
67 petition shall set forth the facts and circumstances upon which the
68 commissioner shall consider approval, and said commissioner shall
69 deny such approval unless he determines that the public interest is
70 such that there is an overriding necessity to relinquish control of the
71 development rights. The commissioner shall hold at least one public
72 hearing prior to the initiation of any proceedings hereunder. The
73 expenses, if any, of the hearing and the referendum shall be borne by
74 the petitioner. In the event that the state sells any development rights
75 under the procedure provided in this subsection, it shall receive the
76 value of such rights.

77 (e) Whenever the commissioner acquires the development rights of
78 any agricultural land pursuant to this section and the purchase price of
79 such development rights is ten thousand dollars or more, said
80 commissioner and the owner of such land may enter into a written

81 agreement which provides for the payment of the purchase price in
82 two or three annual installments, but no interest shall be paid on any
83 unpaid balance of such purchase price.

84 (f) Whenever the commissioner acquires the development rights to
85 any agricultural land, and any municipality in which all or part of the
86 land is situated paid a part of the purchase price from a fund
87 established pursuant to section 7-131q, such municipality and the state
88 may jointly own the development rights, provided joint ownership by
89 such municipality shall be limited to land within its boundaries. The
90 land may be released from its agricultural restriction in accordance
91 with the provisions of subsection (d) of this section. The commissioner
92 shall adopt regulations, in accordance with the provisions of chapter
93 54, establishing procedures for the joint acquisition of development
94 rights to agricultural land.

95 (g) The acquisition of the development rights to any agricultural
96 land by the commissioner shall not be deemed to be ownership of such
97 land and the state shall not be liable for pollution or contamination of
98 such land and no person may bring a civil action against the state for
99 damages resulting from pollution or contamination of such
100 agricultural land.

101 (h) The commissioner may issue a letter of intent requesting the
102 assistance of a nonprofit organization, as defined in Section 501(c)(3) of
103 the Internal Revenue Code of 1986, or any subsequent corresponding
104 internal revenue code of the United States, as from time to time
105 amended, in acquiring the development rights to certain agricultural
106 land. If such organization acquires such rights it may sell them to the
107 commissioner based on a purchase agreement. Such agreement may
108 include reimbursement for reasonable expenses incurred in the
109 acquisition of the rights as well as payment for the rights. The
110 commissioner may enter into joint ownership agreements to acquire
111 the development rights to any qualified agricultural land with any
112 nonprofit organization, as defined in Section 501(c)(3) of the Internal

113 Revenue Code of 1986, or any subsequent corresponding internal
114 revenue code of the United States, as from time to time amended,
115 provided the mission of such nonprofit organization is the permanent
116 protection of agricultural land for the purposes of continued
117 agricultural use.

118 (i) In addition to development rights, the commissioner may acquire
119 or accept as a gift the rights of the owner to construct any residences or
120 any farm structures on agricultural land.

121 (j) The Commissioner of Agriculture, pursuant to any cooperative
122 agreement with the United States Department of Agriculture for the
123 disbursement of funds under federal law, may require that any
124 property to which rights are acquired under this section with such
125 funds shall be managed in accordance with a conservation plan which
126 utilizes the standards and specifications of the Natural Resources
127 Conservation Service field office technical guide and is approved by
128 such service. Any instrument by which the commissioner acquires
129 such rights and for which any such funds are used may provide for a
130 contingent right in the United States of America in the event that the
131 state of Connecticut fails to enforce any of the terms of its rights
132 acquired under this section which failure shall be determined by the
133 United States Secretary of Agriculture. Such contingent right shall
134 entitle the United States Secretary of Agriculture to enforce any rights
135 acquired by the state under this section by any authority provided
136 under law. Such instrument may provide that such rights shall become
137 vested in the United States of America in the event that the state of
138 Connecticut attempts to terminate, transfer or otherwise divest itself of
139 any such rights without the prior consent of the United States
140 Secretary of Agriculture and payment of consideration to the United
141 States and may further provide that title to such rights may be held by
142 the United States of America at any time at the request of the United
143 States Secretary of Agriculture. In connection with such an agreement,
144 the commissioner may hold the United States harmless from any
145 action based on negligence in the procurement or management of any

146 rights acquired under this section and may assure that proper title
 147 evidence is secured, that the title is insured to the amount of the
 148 federal cost paid for the interest of the United States of America and
 149 that, in the event of a failure of title, as determined by a court of
 150 competent jurisdiction, and payment of insurance to the state, the state
 151 will reimburse the United States for the amount of the federal cost
 152 paid.

153 (k) The commissioner, when acquiring the development rights of
 154 any agricultural lands on behalf of the state pursuant to this section,
 155 may incorporate deed requirements in accordance with the provisions
 156 of the federal Farm and Ranch Lands Protection Program, 7 CFR
 157 1491.1, et seq.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	22-26nn
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Statement of Purpose:

To provide the Commissioner of Agriculture with the same authority concerning the community farms program as the commissioner has concerning the state's acquisition of development rights to other agricultural lands.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]